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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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SCULLY SCOTT MURPHY & PRESSER
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GARDEN CITY, NY 11530

EXAMINER

DARROW, JUSTIN T

| | |
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| ART UNIT | PAPER NUMBER |
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2132

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/398,876

Applicant(s)

HANSMANN ET AL.

Examiner

Justin T. Darrow

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attached Office action.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

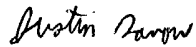
Claim(s) allowed: _____.

Claim(s) objected to: 8-10, 23, 24, 33, 34, 39, and 40.

Claim(s) rejected: 1-7, 11-22, 25-32, 35-38 and 41-43.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


JUSTIN T. DARROW
PRIMARY EXAMINER
TECHNOLOGY CENTER 2100

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ADVISORY ACTION

1. Claims 1-43 have been presented for examination. Claims 1, 14, 28, 35, and 41 have been amended in an amendment filed 10/22/2003. Claims 1, 8, 14, 23, 28, 33, 35, 38, 39, and 41 have been amended in an amendment filed 04/15/2004. Claims 1-43 are pending.

Docketing

2. This application has been docketed to Primary Examiner Justin T. Darrow in Group Art Unit 2132 in Technology Center 2100.

Priority

3. Receipt is acknowledged of a paper submitted under 35 U.S.C. 119(a)-(d), which paper has been placed of record in the file.

4. Acknowledgment is made for the benefit of an earlier filing date of Application No. 99 100 474.8 filed in Europe on 01/12/1999.

Response to Amendment

5. The proposed amendment after final rejection to the claims filed on 09/09/2004 does not comply with the requirements of 37 CFR 1.116 because they raise new objections and new issues under 35 U.S.C. § 112, ¶2. The proposed amendment results in certain terms lacking antecedent basis, such as "the signature key," in indefiniteness for claims depending on cancelled claims. This amendment will not be entered.

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6. This proposed amendment would be entered if the following minor changes were made to the claims referring to the claims as presented in the proposed amendment:

As per claim 3, delete "signature;" in line 3 and replace with --signature key;--.

As per claim 5, delete "1" in line 1 and replace with --3--.

As per claim 11, delete "1" in line 1 and replace with --3-- and, after "signature" in line 2, insert --key--.

As per claim 20, delete "14" in line 1 and replace with --16--.

As per claim 37, delete "36" in line 1 and replace with --35--.

As per claim 40, delete "39" in line 1 and replace with --38--.

As per claim 43, delete "signature;" in line 4 and replace with --signature key;--.

Response to Arguments

7. Applicant's arguments, see pages 14-16, filed 09/09/2004, with respect to claims 1, 3-7, 11-14, 16-22, 24-29, 34, 35, 37, 38, 40, 41, and 43 as presented in the proposed amendment after final filed 09/09/2004 have been fully considered and are persuasive. The rejection of claims 1, 3-7, 11-14, 16-22, 25-29, 35, 37, 38, 41, and 43 based on Nippon Telegraph and Telephone Corporation (Takashima et al.), European Patent Application Publication No. EP 0 715 242 A1 would be withdrawn if the proposed amendment were resubmitted with the changes discussed above in this Office action.

Telephone Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin T. Darrow whose telephone number is (571) 272-3801, and whose electronic mail address is justin.darrow@uspto.gov. The examiner can normally be reached Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barrón, Jr., can be reached at (571) 272-3799.

The fax number for Formal or Official faxes to Technology Center 2100 is (703) 872-9306. In order for a formal paper transmitted by fax to be entered into the application file, the paper and/or fax cover sheet must be signed by a representative for the applicant. Faxed formal papers for application file entry, such as amendments adding claims, extensions of time, and statutory disclaimers for which fees must be charged before entry, must be transmitted with an authorization to charge a deposit account to cover such fees. It is also recommended that the cover sheet for the fax of a formal paper have printed **"OFFICIAL FAX"**. Formal papers transmitted by fax usually require three business days for entry into the application file and consideration by the examiner. Formal or Official faxes including amendments after final rejection (37 CFR 1.116) should be submitted to (703) 872-9306 for expedited entry into the application file. It is further recommended that the cover sheet for the fax containing an amendment after final rejection have printed not only **"OFFICIAL FAX"** but also **"AMENDMENT AFTER FINAL"**.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2100 thereafter.

October 31, 2004


JUSTIN T. DARROW
PRIMARY EXAMINER
TECHNOLOGY CENTER 2100